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AUG 31 2001

OFFICE OF PETITIONS

In re Application of LYNN :
Application No. 09/733,157 : Notice to File Corrected
Filed: December 8, 2000 : Application Papers
For: SYSTEMS AND METHODS FOR : and Decision on Petition
ELECTRONIC INTERACTION :

This is in reply to "Petition Under 37 CFR 1.182," which was filed on June 12, 2001, requesting reconsideration of the Notice of Incomplete Reply, mailed June 1, 2001.

The petition is dismissed.

Applicant is given **TWO MONTHS** from the mailing date of this decision to file a complete reply, i.e., to file drawings in compliance with 37 CFR 1.84, an amendment to the specification deleting the computer programs from the specification, adding the reference required by 37 CFR 1.96(c), and making any necessary changes to the Brief Description of the Drawings, and submitting the computer program listing on a compact disk in compliance with 37 CFR 1.52 and 1.96. Any reply should be entitled "Reply to Notice to File Corrected Application Papers." Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 8, 2000, without an executed oath or declaration and with 15 figures on 25 sheets. When the Office publishes a patent application each sheet of drawings is reproduced as a sheet of drawings on the patent application publication. The drawings that were filed were not suitable for publication. Accordingly, on February 15, 2001, the Office mailed a Notice of Missing Parts, requiring an executed declaration and corrected drawings.

On April 9, 2001, applicant filed a reply including an executed declaration and a surcharge for its late filing. The response references substitute drawings, but no drawings were received. Instead, on April 9, 2001, 67 numbered pages containing, as applicant states, nine CGI programs were included.

As a result of applicant's incomplete reply, on June 1, 2001, a Notice of Incomplete Reply was mailed, stating that substitute drawings were still required.

On June 12, 2001, applicant filed the instant petition. Applicant argues that the drawing requirement was in error and stating that the substitute drawings are a "computer program which have the requisite margin." Applicant also argues that if the margins on the computer program are incorrect that the requirement be waived the application is allowed.

Office procedures no longer permit drawing requirements to be held in abeyance. 35 U.S.C. 122(b) requires the United States Patent and Trademark Office to publish utility and plant applications filed on or after November 29, 2000, unless, on filing, applicant requested nonpublication with the required certification. As a result, the application must be suitable for publication before it will be examined.

37 CFR 1.85(a) states:

A utility or plant application will not be placed on the files for examination until objections to the drawings have been corrected. Except as provided in § 1.215(c), any patent application publication will not include drawings filed after the application has been placed on the files for examination. Unless applicant is otherwise notified in an Office action, objections to the drawings in a utility or plant application will not be held in abeyance, and a request to hold objections to the drawings in abeyance will not be considered a bona fide attempt to advance the application to final action (§ 1.135(c)). If a drawing in a design application meets the requirements of § 1.84(e), (f), and (g) and is suitable for reproduction, but is not otherwise in compliance with § 1.84, the drawing may be admitted for examination.

Applicant's drawings are unacceptable for publication. As to the originally filed drawings, Fig. 1 does not have an acceptable top margin because the text "Exclusive Florida...com" is within the top margin. All of the other sheets of drawings also have text within the top margin. Fig. 3 (continued) has excessive white space. When the patent application publication is printed, it will either look poorly prepared or to be missing the figure. When a figure is split between two sheets, the views must be capable of being linked edge to edge so that no partial view includes parts of another view (37 CFR 1.84(h)(2)) and each view must be labeled with the same number followed by a capital letter. Figure 3 must be re-labeled Fig. 3A, and Fig. 3 (continued) must be re-labeled Fig. 3B, if the entire figure cannot be fit onto a single page so that the entire view is within the required margins. Note the attached Example 17, from the Guide for the Preparation of Patent Drawings. Figure 4 and Fig. 4 (continued), Fig. 7 and Fig. 7 (continued), Fig. 8 and Fig. 8 (continued), Fig. 9 and Fig. 9 (continued), Fig. 13 and Fig. 13 (continued), and Fig. 14, Fig. 14 (continued), Fig. 14 (continued) and Fig. 14 (continued) are similarly unacceptable. The final Fig. 14 (continued) is almost entirely white space, with the text in the margins and the usable surface of the page blank.

As to the "drawings" filed April 9, 2001, of the 67 numbered sheets, not a single figure has been identified. The application papers filed on December 8, 2001 contains a brief description of 15 figures. The drawings in the patent application must correspond to the brief description, so if a change is made in the drawings, a corresponding change must be made to the brief description.

Applicant is **REQUIRED** to submit drawings in compliance with 37 CFR 1.84, particularly drawings with the appropriate margins, views and view numbering. These drawings must correspond to the brief description.


In addition, the specification was filed with about 54 pages of computer program listings. 37 CFR 1.96(c) requires that any computer program included with an application that is over 300 lines be included on a compact disc as provided by 37 CFR 1.52(e). Applicant is **REQUIRED** to submit the computer program listing on a compact disk, and to cancel the computer program from the specification and to add the reference required by 37 CFR 1.96(c) at the position specified in 37 CFR 1.77(b)(4).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 Box Missing Parts
 Washington, D.C. 20231

After this decision is mailed, the application will be returned to the Office of Initial Patent Examination to await any reply from applicant.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)306-3159.


Karin Tyson
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy